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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/581,821	04/13/2007	Rika Koyama	082420-000400US	7195
20350 7590 02/02/2010 TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834				
EXAMINER CHAWAN, VIJAY B				
ART UNIT		PAPER NUMBER		
2626				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/581,821

Applicant(s)

KOYAMA, RIKI

Examiner

Vijay B. Chawan

Art Unit

2626

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 March 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/CD)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claim 9 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claim 8 claims a computer program. Computer programs per se are neither computer components nor statutory processes, as they are not "acts" being performed. In other words, computer programs are non-functional descriptive material that does not constitute a statutory process under 35 U.S.C. 101.

Based on Supreme Court precedent and recent Federal Circuit decisions, the Office's guidance to an examiner is that 35 U.S.C. 101 process must be (1) tied to a particular machine or apparatus or (2) transform underlying subject matter (such as an article or materials) to a different state or thing. *Diamond v. Diehr*, 450 U.S. 175, 184, (1981); *Parker v. Flook*, 437 U.S. 584 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972); *Cochrane v. Deener* 94 U.S. 780, 787-88 (1876).

To qualify as a 35 U.S.C. statutory process, the claim should recite the particular machine or apparatus to which it is tied, for example by identifying the machine or apparatus that accomplishes the method steps, or positively reciting the subject matter that is being transformed, for example by identifying the material that is being changed to a different state.

There are two corollaries to the machine-or-transformation test. First, a mere field-of- use is generally insufficient to render an otherwise ineligible method claim patent-eligible. This means the machine or transformation must impose meaningful limits on the method claim's scope to pass the test. Second, insignificant extra-solution activity will not transform an unpatentable principle into a patentable process. This means reciting a specific machine or a particular transformation of a specific article in an insignificant step, such as data gathering or outputting is not sufficient to pass the test. In the instant application, applicant amended claim 8, fails both these tests.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Gayama (US 20020156830).

As per claim 1, Gayama teaches a device control device comprising:
input information recognition and identification means (6, 61, S11) which identifies input information; process-item data storing means (D4) which stores a plurality of process items for executing processes corresponding to recognized input information recognized and identified by the input information recognition and

identification means; transition-definition data storing means (D5) which stores plural pieces of transition definition data defining transition from one process item in the plurality of process items to another process item; and acquisition means (6, 61, 64) which accesses an externally located source (100) of a new process item and/or transition definition data, acquires said new process item and/or transition definition data, and updates an old process item stored in said process-item data storing means or old transition definition data stored in said transition-definition data storing means to said new process item or transition definition data, wherein each of said transition definition data includes a condition corresponding to input information, and a piece of transition definition data is selected from at least said recognized information and the conditions of the individual transition definition data, based on comparison between said input information input and the conditions of the individual transition definition data, and a status is transitioned to a process item designated by said selected transition definition data (Fig.1, 0010 -0013, 0063, 0068 – 0075, 0091 – 0094, 0102-0107).

As per claim 2, Gayama teaches the device control device according to claim 1, wherein said source compresses and supplies said new process item or said transition definition data, and said acquisition means has means which decompresses said new process item or said transition definition data acquired from said source (Fig.1, 0010 - 0013, 0063, 0068 – 0075, 0091 – 0094, 0102-0107).

As per claim 3, Gayama teaches a speech recognition device comprising: speech signal recognition and identification means which recognizes and identifies a speech signal to be input; process-item data storing means which stores a plurality of

process items for executing processes corresponding to a speech signal recognized and identified by the speech signal recognition and identification means; transition-definition data storing means which stores plural pieces of transition definition data defining transition from one process item in the plurality of process items to another process item; and acquisition means which accesses an externally located source of a new process item and/or a transition definition data, acquires said new process item or transition definition data, and updates an old process item stored in said process-item data storing means or old transition definition data stored in said transition-definition data storing means to said new process item or transition definition data, wherein each of said transition definition data includes a condition corresponding to input information, and a piece of transition definition data is selected from at least said recognized information and the conditions of the individual transition definition data, based on comparison between said speech signal input and the conditions of the individual transition definition data, and a status is transitioned to a process item designated by said selected transition definition data (Fig.1, 0010 -0013, 0063, 0068 – 0075, 0091 – 0094, 0102-0107).

AS per claim 4, Gayama teaches the speech recognition device according to claim 3, wherein said source compresses and supplies said new process item or said transition definition data, and said acquisition means has means which decompresses said new process item or said transition definition data acquired from said source (Fig.1, 0010 -0013, 0063, 0068 – 0075, 0091 – 0094, 0102-0107).

As per claim 5, Gayama teaches an agent device comprising: input information recognition and identification means (6, 61, S11) which recognizes and identifies input information to be input; process-item data storing means (D4) which stores a plurality of process items for executing processes corresponding to recognized input information recognized and identified by the input information recognition and identification means; transition-definition data storing means (D5) which stores plural pieces of transition definition data each defining transition from one process item in the plurality of process items to another process item; and acquisition means (6, 61, 64) which accesses an externally located source (100) of a new process item and/or a transition definition data, acquires said new process item or transition definition data, and updates an old process item stored in said process-item data storing means or old transition definition data stored in said transition-definition data storing means to said new process item or transition definition data, wherein each of said transition definition data includes a condition corresponding to input information, and a piece of transition definition data is selected from at least said recognized information and the conditions of the individual transition definition data, based on comparison between said input information input and the conditions of the individual transition definition data, and a status is transitioned to a process item designated by said selected transition definition data (Fig.1, 0010 -0013, 0063, 0068 – 0075, 0091 – 0094, 0102-0107).

As per claim 6, Gayama teaches the agent device according to claim 5, wherein said source compresses and supplies said new process item or said transition definition data, and said update means has means which decompresses said new process item

or said transition definition data acquired from said source (Fig.1, 0010 -0013, 0063, 0068 – 0075, 0091 – 0094, 0102-0107).

As per claim 7, Gayama teaches a device control method comprising: a process-item data storing step of storing a plurality of process items for executing processes corresponding to input information recognized and identified at an input information recognition and identification step; a transition-definition data storing step of storing plural pieces of transition definition data each having a condition corresponding to input information, and defining transition from one process item in the plurality of process items to another process item; an acquisition and update step of accessing an externally located source of a new process item or transition definition data, acquiring said new process item or transition definition data, and updating an old process item stored at said process-item data storing step or old transition definition data stored at said transition-definition data storing step to said new process item or transition definition data; said input information recognition and identification step of recognizing and identifying input information to be input; and a step of selecting a piece of transition definition data from at least said recognized information and the conditions of the individual transition definition data, based on comparison between said input information input and the conditions of the individual transition definition data, and transitioning a status to a process item designated by said selected transition definition data (Fig.1, 0010 -0013, 0063, 0068 – 0075, 0091 – 0094, 0102-0107).

As per claim 8, Gayama teaches a computer program that allows a computer to function as: input information recognition and identification means (6, 61, S1) which

identifies input information; process-item data storing means (D4) which stores a plurality of process items for executing processes corresponding to recognized input information recognized and identified by the input information recognition and identification means; transition-definition data storing means (D5) which stores plural pieces of transition definition data defining transition from one process item in the plurality of process items to another process item; and acquisition means (6, 61, 64) which accesses an externally located source (100) of a new process item and/or transition definition data, acquires said new process item and/or transition definition data, and updates an old process item stored in said process-item data storing means or old transition definition data stored in said transition-definition data storing means to said new process item or transition definition data, and that is structured in such a way that each of said transition definition data includes a condition corresponding to input information, a piece of transition definition data is selected from at least said recognized information and the conditions of the individual transition definition data, based on comparison between said input information input and the conditions of the individual transition definition data, and a status is transitioned to a process item designated by said selected transition definition data (Fig.1, 0010 -0013, 0063, 0068 – 0075, 0091 – 0094, 0102-0107).

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Please see attached form PTO-892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vijay B. Chawan whose telephone number is (571) 272-7601. The examiner can normally be reached on Monday Through Friday 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richemond Dorvil can be reached on (571) 272-7602. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Vijay B. Chawan/
Primary Examiner, Art Unit 2626